

MEMORANDUM OF AGREEMENT BETWEEN THE MAINE DEPARTMENT OF EDUCATION AND

This Memorandum of Agreement (“the Agreement”) is entered into on this ____ day of ____ by and between the Maine Department of Education (“the Department”) and _____.

I. PARTIES. The Maine Department of Education is a state educational agency, authorized to collect and maintain student educational records and to receive information from local educational agencies (LEAs) consistent with applicable state and federal laws and subject to the federal Family Educational Rights and Privacy Act (FERPA), as authorized by 20 U.S.C. § 1232g(b) and 34 CFR Part 99.

II. PURPOSE. The purpose of the Agreement is to document the terms under which the Department is authorized to release to _____ personally identifiable student information for approved research projects, and to designate _____ as the authorized representative of the Department consistent with applicable federal and state laws concerning access to and confidentiality of student record information including FERPA. As described herein, _____, as the Department’s authorized representative, may have temporary access to data in the custody of the Department for use in projects identified in addenda to the Agreement and under the terms and conditions described in the Agreement and any addenda to it.

III. AUTHORITY. Consistent with the federal Family Educational Rights and Privacy Act (FERPA) the Department may disclose personally identifiable information from students’ education records to its authorized representative without written consent for use in studies initiated or approved by the Department in connection with an audit or evaluation of Federal or State supported education programs; or enforcement of, or compliance with, Federal legal requirements relating to such programs. 34 CFR § 99.31(a)(3), 20 U.S.C. § 1232g(b)(3). The Department may also disclose personally identifiable information to its authorized representative without written consent for the purpose of conducting studies for or on behalf of the Department in order to develop, validate or administer predictive tests; administer student aid programs; or improve instruction. 34 CFR § 99.31(a)(6) and §§ 99.35; 20 U.S.C. § 1232g(b)(1)(F).

The Department designates _____ as its authorized representative for the purposes of disclosing student information, including personally identifiable information, for use in evaluation, enforcement, audit, compliance, or study as described above.

All projects referred to above shall be described in addenda to this Agreement, which shall include project information including but not limited to the scope of the project, the data that will be disclosed to _____, the temporary custodian appointed by

_____, applicable timelines, additional terms and conditions specific to each project, and requirements for communication and reporting to the Department.

IV. TERMS AND CONDITIONS. To effect the transfer of data and information that is subject to State and Federal confidentiality laws and to ensure that the required confidentiality of personally identifiable information shall always be maintained, _____ agrees to:

1. In all respects comply with the provisions of FERPA. For the purposes of the Agreement and the specific projects conducted pursuant to the Agreement and described in addenda to it, FERPA includes any amendments or other relevant provisions of federal law, as well as all requirements of 34 CFR Part 99 and 20 U.S.C. § 1232g. Nothing in this Agreement may be construed to allow either party to maintain, use, disclose, or share student record information in a manner not allowed under Federal law or regulation.
2. Name a temporary custodian of the Department's data for each project. That custodian shall be able to request and receive data under the Agreement and applicable addenda to it and to ensure _____'s compliance with the terms of the Agreement and applicable laws. The Department shall release data only to the named temporary custodian, who shall be responsible for transmitting all data requests and maintaining a log or other record of all data requested and received pursuant to the Agreement and addenda to it, including confirmation of the completion of the project and the return or destruction of data as required by the Agreement. The Department or its agents may upon request review the records required to be kept by _____ under this section.
3. Use data shared under the Agreement for no purpose other than the research projects described in the attached addenda, and as authorized under 34 CFR §§ 99.31(a)(6) and 99.35; or 34 CFR § 99.31(a)(3). Nothing in the Agreement or the addenda shall be construed to authorize _____ to have access to additional data from the Department that is not included in the scope of the Agreement or under the terms of the projects described in the addenda to it or to govern access to the data by entities other than the Parties. _____ further agrees not to share data received under the Agreement and addenda with any other entity without prior written approval from the Department. _____ understands that the Agreement does not convey ownership of data to _____.
4. Require all employees, contractors and agents of any kind to comply with the Agreement, and all applicable provisions of FERPA and other federal and state laws with respect to the data and information shared under the Agreement.
_____ agrees to require of and maintain an appropriate confidentiality agreement from each employee, contractor, or agency with access to data pursuant to the Agreement and addenda to it. Nothing in this section authorizes _____ to share data and information provided under the Agreement and addenda with any other individual or entity for any purpose other than

completing the Mitchell Institute work as authorized by the Department consistent with this Agreement and addenda to it.

5. Provide the Department with periodic status reports during the project term as described in addenda to this Agreement. Progress reports shall include but not be limited to progress of the project relative to established deadlines.
_____ shall provide the Department with immediate written notice of any changes to project protocols except as consistent with the Agreement and any addenda to it.
6. Maintain all data received pursuant to the Agreement separate from all other data files and not copy, reproduce or transmit data obtained pursuant to the Agreement except to its own agents acting for or on behalf of the Department and as necessary to fulfill the purpose of the project described in the attached addenda. All copies of data of any type, including any modifications or additions to data from any source that contains information regarding individual students, are subject to the provisions of the Agreement and addenda to it in the same manner as the original data disclosed by the Department to _____. The ability to access or maintain data under the Agreement shall not under any circumstances transfer from _____ to any other individual, institution or entity.
7. Not disclose data contained under the Agreement or addenda to it in any manner that could identify any individual student, except as authorized by FERPA, to any entity other than the Department, or authorized employees, contractors and agents of _____ working as the Department's authorized representative on projects approved by the Department consistent with this Agreement and described in addenda to it. Persons participating in approved projects on behalf of the Parties under this Agreement shall neither disclose or otherwise release data and reports relating to an individual student, nor disclose information relating to a group or category of students without ensuring the confidentiality of students in that group. Publications and reports of this data and information related to it, including preliminary project descriptions and draft reports shall involve only aggregate data and no personally identifiable information or other information that could lead to the identification of any student. No report of these data containing a group of students less than the minimum determined by the Department shall be released to anyone other than the Department. _____ shall require that all employees, contractors and agents working on this project abide by that statistical cell size.
8. Not provide any data obtained under this Agreement to any entity or person ineligible to receive data protected by FERPA, or prohibited from receiving data from any entity by virtue of a finding under 34 CFR § 99.31(a)(6)(iii).
9. Destroy all data obtained under the Agreement and addenda to it when no longer needed for the purpose for which it was obtained. Nothing in this Agreement authorizes _____ to maintain data beyond the time period reasonably needed to complete the projects described in the addenda to this Agreement. Upon termination of the Agreement or publication of reports generated under this

Agreement and addenda to it, as authorized by the Department, whichever occurs first, _____ will return all data files and hard copy records to the Department and purge any copies of data from its computer systems in compliance with 34 CFR §§ 99.31(a)(6)(ii)(b) and 99.35(b)(2). _____ agrees to require all employees, contractors, or agents of any kind to comply with this provision. No other entity is authorized to continue research using the data obtained under the Agreement upon the termination of the Agreement and projects described in addenda to it.

10. Provide the Department with one electronic and at least one paper copy of the final versions of all approved, released reports and other documents associated with this project. The Department reserves the right to distribute and otherwise use the final approved, released report and associated documents as it wishes, in sum or in part.

V. RELATED PARTIES. _____ represents that it is authorized to bind to the terms of the Agreement, including confidentiality, maintenance, publication, and destruction or return of data, all related or associated institutions, individuals, employees or contractors who may have access to the data or may own, lease or control equipment or facilities of any kind where the data is stored, maintained or use in any way.

VI. TERM. This Agreement takes effect upon signature by the authorized representative of each Party and shall remain in effect until completion of the projects described in the addenda or until canceled by either Party upon 30 days written notice, whichever occurs first. The Agreement is renewable upon written approval by the authorized representative of each Party.

VII. This Agreement expresses the entire agreement of the parties and shall not be modified or altered except in writing executed by the authorized representatives of the Department and the Mitchell Institute, and in a manner consistent with applicable State and Federal laws.

For the
Maine Department of Education

For the

Stephen L. Bowen
Commissioner of Education

Date

Date

Attachment(s): Addendum A